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No. 07-472

In the Supreme Court of the United States

EVGUENI POJILENKO, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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OPINIONS BELOW

Petitioner contends that the standards applied by the court of appeals in reviewing his above-Guidelines sentence for unreasonableness are inconsistent with *United States* v. *Booker*, 543 U.S. 220 (2005). On June 11, 2007, this Court granted certiorari in *Gall* v. *United States*, No. 06-7949, to address the standards to be applied in reviewing a sentence outside the Guidelines for unreasonableness under *Booker*. Accordingly, the petition for a writ of certiorari should be held pending the Court's resolution of *Gall*, and then disposed of as appropriate in light of the decision in that case.*

* The government waives any further response to the petition unless this Court requests otherwise.

Respectfully Submitted.

PAUL D. CLEMENT
Solicitor General

OCTOBER 2007